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OFFICE OF PETITIONS

In re Application of  
James Hongxue Wang, et al.  
Application No. 09/629,678  
Filed: August 1, 2000  
Attorney Docket No. 659/1744

ON PETITION

This is a decision on the provisional petition under 37 CFR 1.137(b), filed May 5, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A Final Office action was mailed to applicant on November 13, 2002, which set a three-month shortened statutory period within which to submit a reply. A reply was filed via certificate of mailing under the provisions of 37 CFR 1.8 on February 12, 2003. An Advisory Action was mailed to applicant on March 17, 2003 and applicant submitted a Request for Continued Examination (RCE) and an appropriate request for extension of time under 37 CFR 1.136 on April 21, 2003. A Notice of Improper RCE was mailed to applicant on May 21, 2003, stating that the RCE was not accompanied by a submission.

MPEP 706.07(h)(II) in pertinent part states:

"In addition, a previously filed amendment after final (whether or not entered) may satisfy the submission requirement."

MPEP 706.07(h)(III)(D) in pertinent part further states:

"Any previously filed unentered amendments, amendments filed with the RCE, and any amendments filed prior to the mailing of the next Office action (after the RCE) will normally be entered. Absent specific instructions for entry, all amendments filed as of the date the RCE is filed are entered in the order in which they were filed."

In view of the above, the amendment filed February 12, 2003 was construed to be the submission required by 37 CFR 1.114. Accordingly, the application was not held abandoned. Therefore, the instant petition is unnecessary and the petition fee will be refunded to petitioner in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to the Publishing Division to be processed into a patent.

A handwritten signature in cursive script, reading "Marianne E. Jenkins".

Marianne E. Jenkins  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy